

Marrero/J

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

HANESBRANDS INC. and HBI BRANDED
APPAREL ENTERPRISES, LLC,

Plaintiffs,

- against -

METRO SPORTS (d/b/a PLAYERS SPORTS, d/b/a
HOT DOT, d/b/a HIP HOP SPORTSWEAR); HOT
DOT FASHION, INC.; HIP HOP SPORTSWEAR
INC.; MICHAEL FASHIONS INC. (d/b/a
MICHAEL FASHION); LONDON BOY
SPORTSWEAR, LTD. (d/b/a LONDON BOY);
TRANDZ N.Y., CORP. (d/b/a OCTANE); OCTANE
NYC INC. (d/b/a OCTANE); FLASH SPORTS,
INC.; 104TH ST. FASHION INC. (d/b/a 104
STREET FASHIONS, d/b/a 104 FASHIONS); F.T.C.
FASHION; various JOHN and JANE DOES, and
XYZ COMPANIES (UNIDENTIFIED),

Defendants.

x

: Civil Action No. 08-cv-0545 (VM)

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 4-22-08

x

FINAL JUDGMENT

Plaintiffs' Summons and Complaint having been properly served on the Defendants (excluding various John and Jane Does and XYZ Companies); the Defendants not having responded to the Summons and Complaint; the time for responding to the Summons and Complaint having expired; Defendants not being represented by counsel; Plaintiffs having obtained a Certificate of Default as to the Defendants; Plaintiffs having filed and served on Defendants a Motion for Default Judgment; this Court having entered a Default Judgment against Defendants;

NOW UPON Plaintiff's Request for Entry of A Permanent Injunction and Award of Costs and Attorney Fees, the April 21, 2008 Affidavit of Jacob Steven Wharton, the Memorandum in Support of this Request and the Exhibits attached thereto, and it appearing to the Court that Plaintiffs are entitled to a permanent injunction, costs and attorneys' fees, and for good cause shown, it is hereby

ORDERED, ADJUDGED AND DECREED that Defendants are in default for failure to plead or otherwise defend as required by law; and it is further

ORDERED, ADJUDGED AND DECREED that Defendants have

1. Infringed and counterfeited Plaintiff's CHAMPION, "C" Logo, and SUPERHOOD marks in violation of 15 U.S.C. §§ 1114(1) and 1116, as alleged in Count I of the First Amended Complaint;

2. Unfairly competed with Plaintiff and falsely designated the origin of goods, in violation of 15 U.S.C. § 1125(a), as alleged in Count II of the First Amended Complaint;

3. Diluted Plaintiffs' federally registered trademarks in violation of 15 U.S.C. § 1125(c), as alleged in Count III of the First Amended Complaint;

4. Engaged in trademark infringement and unfair competition pursuant to N.Y. Gen. Business Law § 360-o and New York common law, as alleged in Count IV of the First Amended Complaint;

5. Diluted and injured Plaintiffs' business reputation pursuant to New York Gen. Business Law § 360-l, as alleged in Count V of the First Amended Complaint;

6. Engaged in deceptive trade acts and practices in the conduct of its business in violation of N.Y. Gen. Business Law §§ 349 and 350 and New York common law, as alleged in Count VI of the First Amended Complaint;

7. Defendants were unjustly enriched, as alleged in Count VII of the First Amended Complaint; and it is further

ORDERED, ADJUDGED AND DECREED that this is an exceptional case within the meaning of 15 U.S.C. § 1117(a); and it is further

ORDERED, ADJUDGED AND DECREED that Defendants and all those acting in concert or participation with it, including their officers, directors, principals, agents, servants, affiliates, employees, attorneys, representatives, successors and assigns, are hereby PERMANENTLY ENJOINED and restricted from directly or indirectly:

1. Using in any manner, or holding itself out as having rights to use, any counterfeit of the CHAMPION, "C" Logo, or SUPER HOOD marks ("Plaintiffs' Marks"), or any other counterfeit name, mark or designation confusingly similar to Plaintiffs' Marks, to identify, designate, describe or refer to itself, or any goods or services it offers;

2. Using counterfeits of Plaintiffs' Marks to render, offer, sell, advertise or promote, any goods or services;

3. Making any statement or representation whatsoever, or using any false designation of origin or false description or false representation, or performing any act, which can or is likely to cause confusion, mistake, or to deceive, or otherwise mislead the trade or public into falsely believing that Plaintiffs and Defendants are one and the same or that there is an affiliation or relationship between Plaintiffs and Defendants or the products and services they offer;

4. Engaging in any other activity constituting unfair competition with Plaintiffs, or constituting deceptive trade practices, or constituting dilution of Plaintiffs' Marks, or of Plaintiffs' reputation or goodwill; and it is further

ORDERED, ADJUDGED AND DECREED that within one week of service of this Order, Defendants are required to remove all counterfeit goods and deliver up for destruction to Plaintiffs or its representatives all counterfeit goods which bear Plaintiffs' Marks, and any variations theron, which are confusingly similar to Plaintiffs' Marks, together with all plates, molds, matrices and other means and materials for making or reproducing same; and it is further

ORDERED, ADJUDGED AND DECREED that Defendants are individually liable to Plaintiffs for statutory damages in the amount of \$30,000.00 each (\$10,000.00 per mark x 3 marks x 1 type of good) pursuant to Lanham Act, 15 U.S.C. § 1117(c); and it is further,

ORDERED, ADJUDGED AND DECREED that Defendants are ~~individually~~
jointly and severally liable to Plaintiffs as compensation for reasonable attorneys' fees in connection with this action in the amount of \$162,605.68, ~~each~~, for a total of \$162,605.68 pursuant to 15 U.S.C. §§ 1117(a) and (c); and it is further

ORDERED, ADJUDGED AND DECREED that Defendants are ~~individually~~
jointly and severally liable to Plaintiffs as reasonable compensation for costs in connection with this action in the amount \$8,094.69 ~~each~~, for a total of \$8,094.69 pursuant to 15 U.S.C. 1117(a); and it is further

ORDERED that service of this Order may be made upon Defendants by U.S. mail first class, postage prepaid.

Dated: 22 April, 2008

Honorable Victor Marrero
United States District Judge

SO ORDERED: The Clerk of Court is directed to withdraw any pending motions and to close this case.	
4-22-08 DATE	VICTOR MARRERO, U.S.D.J.

United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213

Date:

In Re:

-v-

Case #: ()

Dear Litigant,

Enclosed is a copy of the judgment entered in your case.

Your attention is directed to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, which requires that if you wish to appeal the judgment in your case, you must file a notice of appeal within 30 days of the date of entry of the judgment (60 days if the United States or an officer or agency of the United States is a party).

If you wish to appeal the judgment but for any reason you are unable to file your notice of appeal within the required time, you may make a motion for an extension of time in accordance with the provision of Fed. R. App. P. 4(a)(5). That rule requires you to show "excusable neglect" or "good cause" for your failure to file your notice of appeal within the time allowed. Any such motion must first be served upon the other parties and then filed with the Pro Se Office no later than 60 days from the date of entry of the judgment (90 days if the United States or an officer or agency of the United States is a party).

The enclosed Forms 1, 2 and 3 cover some common situations, and you may choose to use one of them if appropriate to your circumstances.

The Filing fee for a notice of appeal is \$5.00 and the appellate docketing fee is \$450.00 payable to the "Clerk of the Court, USDC, SDNY" by certified check, money order or cash. No personal checks are accepted.

J. Michael McMahon, Clerk of Court

by: _____

, Deputy Clerk

APPEAL FORMS

Docket Support Unit

Revised: April 9, 2006

United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213

X

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NOTICE OF APPEAL

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X

Notice is hereby given that _____
(party)
hereby appeals to the United States Court of Appeals for the Second Circuit from the Judgment [describe it]

entered in this action on the _____ day of _____, _____.
(day) (month) (year)

(Signature)

(Address)

(City, State and Zip Code)

Date: _____ () _____
(Telephone Number)

Note: You may use this form to take an appeal provided that it is received by the office of the Clerk of the District Court within 30 days of the date on which the judgment was entered (60 days if the United States or an officer or agency of the United States is a party).

FORM 1

United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213

X

MOTION FOR EXTENSION OF TIME
TO FILE A NOTICE OF APPEAL

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X

Pursuant to Fed. R. App. P. 4(a)(5), _____ respectfully
(party)
requests leave to file the within notice of appeal out of time. _____
(party)
desires to appeal the judgment in this action entered on _____ but failed to file a
(day)
notice of appeal within the required number of days because:

[Explain here the "excusable neglect" or "good cause" which led to your failure to file a notice of appeal within the required number of days.]

(Signature)

(Address)

(City, State and Zip Code)

Date: _____

() _____ - _____
(Telephone Number)

Note: You may use this form, together with a copy of Form 1, if you are seeking to appeal a judgment and did not file a copy of Form 1 within the required time. If you follow this procedure, these forms must be received in the office of the Clerk of the District Court no later than 60 days of the date which the judgment was entered (90 days if the United States or an officer or agency of the United States is a party).

APPEAL FORMS

Docket Support Unit

Revised: April 9, 2006

FORM 2

United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213

X

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NOTICE OF APPEAL
AND
MOTION FOR EXTENSION OF TIME

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X

1. Notice is hereby given that _____ hereby appeals to
(party)
the United States Court of Appeals for the Second Circuit from the judgment entered on _____
[Give a description of the judgment]

2. In the event that this form was not received in the Clerk's office within the required time
respectfully requests the court to grant an extension of time in
(party)
accordance with Fed. R. App. P. 4(a)(5).

a. In support of this request, _____ states that
(party)
this Court's judgment was received on _____ and that this form was mailed to the
(date)
court on _____
(date)

(Signature)

(Address)

(City, State and Zip Code)

Date: _____ () _____
(Telephone Number)

Note: You may use this form if you are mailing your notice of appeal and are not sure the Clerk of the District Court will receive it within the 30 days of the date on which the judgment was entered (60 days if the United States or an officer or agency of the United States is a party).

FORM 3

United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213

X

AFFIRMATION OF SERVICE

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X

I, _____, declare under penalty of perjury that I have served a copy of the attached _____

upon _____

whose address is: _____

Date: _____
New York, New York

(Signature)

(Address)

(City, State and Zip Code)